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May 14, 2021

BY ECF

Honorable Andrew L. Carter Jr.
United States District Court
Southern District of New York
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, New York 10007

Re: *Lovati et al. v. The Bolivarian Republic of Venezuela* - Case No. 19-cv-04793
Lovati et al. v. The Bolivarian Republic of Venezuela - Case No. 19-cv-04796

Your Honor:

We represent Plaintiffs in the above-entitled actions and write, pursuant to Your Honor's Order dated March 16, 2021 (D.E. 49), to update the Court on Plaintiffs' efforts to serve process on the Defendant, the Bolivarian Republic of Venezuela pursuant to 28 U.S.C. § 1608(a)(4) of the Foreign Sovereign Immunities Act ("FSIA").

As a reminder, the Republic has breached its contractual obligations to accept service of process in the above-referenced actions. On November 11, 2020, Your Honor entered Orders in both actions concluding that, given the Republic's breaches, Plaintiffs' prior service attempts did not strictly comply with the requirements of 28 U.S.C. § 1608(a)(1); the Orders therefore directed FSIA service through other means. (D.E. 44 & 50.) As we reported on January 15, 2021, Plaintiffs thereafter took steps to serve the Republic through diplomatic channels via the United States Department of State, consistent with 28 U.S.C. § 1608(a)(4). (D.E. 46 & 52.) As we reported on March 15, 2021, however, the State Department had been unable to locate the papers transmitted for the No. 19-cv-04793 action, and instructed us to re-transmit the papers through Clerk for the Southern District consistent with Southern District and State Department FSIA protocol. (D.E. 48, 54.) On March 17, 2021, the Clerk filed a Certificate of Mailing confirming that it had re-transmitted the paperwork to the State Department for that action. (D.E. 50.)

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Honorable Andrew L. Carter, Jr.
May 14, 2021
Page 2

Since then, we have communicated several times with our point of contact at the State Department. On March 22, 2021, the State Department was unable to confirm receipt of the additional materials, but suggested that we follow up in late April, at which point our contact hoped to “have a firmer sense of timing” concerning service of process in both matters. Per these instructions, we followed up in late April and again in early May, whereupon our point of contact confirmed custody of the requisite documents in both matters and stated “they are currently in process to be transmitted.” The State Department cautioned, however, that “COVID-19 has impacted processing service requests, so unfortunately I don’t have a specific date/time for when the materials will be transmitted.”

In communication earlier this week, the State Department advised as follows:

The documents have not yet been delivered, however, the process for arranging transmission through diplomatic channels is largely complete. We are awaiting confirmation of the deposit of the fees (as another office outside of Washington, DC handles fee acceptance) and the final details for coordinating actual delivery, but we hope to have that done in the next few days. Unfortunately, I don’t have a precise date for delivery, but barring any unforeseen issues we expect the documents will be transmitted by the end of May.

This morning our point of contact advised that the State Department had no further updates beyond the foregoing. Based on the foregoing, however, we are cautiously optimistic that the State Department will soon complete service the Republic consistent with 28 U.S.C. § 1608(a)(4). Meanwhile, we respectfully request that the Court authorize an additional 60 days for the completion of service, and direct Plaintiffs to report on status by no later than July 13, 2021. Certainly if we learn that the State Department has completed service before then, we will notify the Court.

Respectfully,

/s David T. McTaggart

DMT:hs

cc: Kent A. Yalowitz, Esq. (via ECF)